

ORIGINAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

XROADS SOLUTIONS GROUP, LLC,

Plaintiff,

- against -

KEITH A. MAIB,

Defendant.

USDC SDNY DOCUMENT FILED ELECTRONICALLY FILED DATE FILED: 9/1/05

05 Civ. 3435 (JGK)

MEMORANDUM OPINION
AND ORDER

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JOHN G. KOELTL, District Judge:

The defendant moves to dismiss various allegations from the complaint prior to answering pursuant to Fed. R. Civ. P. 12(f) on the grounds that the allegations contain "redundant, immaterial, impertinent, or scandalous matter." The allegations relate primarily to the plaintiff's reliance on restrictive covenants that the defendant alleges are invalid under California law which the defendant alleges applies in this case. The motion raises issues of fact and law that are not appropriately addressed in a motion to strike but should be addressed in a motion to dismiss or for summary judgment. It cannot be determined on the face of the complaint that the allegations are so "redundant, immaterial, impertinent, or scandalous" that they

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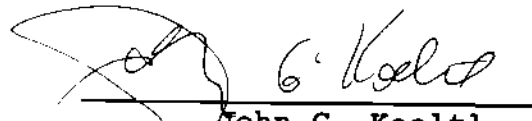
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should be stricken. See, e.g., County Vanlines Inc. v. Experian Information Solutions, Inc., 205 F.R.D. 148, 152-53 (S.D.N.Y. 2002).

The motion to strike is denied.

SO ORDERED.

Dated: New York, New York
August 30, 2005



John G. Koeltl
United States District Judge